

Fiscal Note

Fiscal Services Division



HF 2350 – Methamphetamine Precursors (LSB 5902HV)

Analyst: Jennifer Acton (Phone: 515-281-7846) (jennifer.acton@legis.state.ia.us)

Fiscal Note Version – New

Description

House File 2350 relates to the possession of ammonium sulfate, ammonium nitrate, or sodium hydroxide with the intent to manufacture a controlled substance. This is a Class “D” felony.

Background

Correctional and Fiscal Information

1. A Class “D” felony is punishable by confinement for no more than five years and a fine of at least \$750 but not more than \$7,500.
2. One-pot methamphetamine lab incidents have increased since 2008. The Division of Narcotics Enforcement did not start tracking one-pot meth labs separately until 2010. Ammonium sulfate, ammonium nitrate (used in fertilizer or some instant cold packs), and sodium hydroxide (lye and some drain openers) along with hydrogen peroxide, camping fuel or starter fuel, lithium metal, and pseudoephedrine are combined to manufacture meth in a form called one-pot meth. The following lists the number of one-pot meth labs seized per year:
 - 2008 – 0
 - 2009 – 1
 - 2010 – 56
 - 2011 - 109
3. According to the Office of Drug Control Policy, in FY 2010, there were 305 meth lab incident responses and 56 (18.4%) were one-pot meth labs. In FY 2011, there were 412 meth lab incident responses and 109 (26.5%) were one-pot meth labs.
4. According to the Justice Data Warehouse, in FY 2011, there were 693 people charged with possession of meth precursors and 324 (46.8%) were convicted as charged and 49 (7.1%) were convicted of another charge.
5. The average length of stay in prison for Class “D” nonperson felonies is 14.5 months. The average length of stay on parole upon release from prison is 13.7 months. The average length of stay in prison for aggravated misdemeanants convicted of an aggravated misdemeanor nonperson crime is 7.7 months. The average length of stay on parole upon release from prison is 5.3 months. The marginal cost per day is \$15.59 for prison. The average cost per day for parole is \$3.49.
6. The average length of stay on probation for Class “D” felons is 30.8 months. The average length of stay on probation for aggravated misdemeanants is 18.1 months. The average cost per day for probation is \$3.49.

7. The average length of stay for offenders sentenced to a Community-based Corrections (CBC) facility is 5.6 months with an average daily cost of \$11.50 (local income is 93.9% of this cost). Generally, these offenders are released to probation supervision.
8. The current waiting list for CBC residential facilities is approximately 800 offenders. This number includes offenders waiting in the State prison system, parole, probation, county jails, or the federal prison system.
9. The State prison population consisted of 8,459 offenders on February 21, 2012. This is 117.3% of capacity.
10. The cost for indigent defense for an aggravated misdemeanor or a Class "D" felony case is \$1,200.
11. The average cost per case for the Judicial Branch for an aggravated misdemeanor is \$205 for a bench trial. The average cost for a Class "D" felony is \$417 for a bench trial.

Minority Data Information

According to the Justice Data Warehouse, in FY 2011, 1.3% of Blacks and no Hispanics were convicted of meth precursor offenses under Iowa Code section [124.401](#)(4).

Assumptions

Correctional and Fiscal Information

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other correctional policies and practices will not change over the projection period.
3. The law will become effective July 1, 2012. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system (to allow court processing time.)
4. For purposes of the analysis, it is assumed that one individual per incident would be charged with the Class "D" felony, and it is assumed dismissal/acquittal rates and conviction rates will be consistent with Iowa Code section [124.401](#)(4) charges and dispositions for FY 2011.
5. For purposes of the analysis, it is assumed that possessing precursors, although separate cases, is as common as the one-pot lab incidents.
6. Half of the offenders convicted are indigent.
7. These will be bench trials.
8. Marginal costs for county jails cannot be determined due to lack of data. For the purposes of this analysis, the marginal cost for county jails is \$15.00 per day.

Minority Data Information

1. The impact on minorities will remain consistent with FY 2011 convictions.
2. Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.0%.

Summary of Impacts

Correctional Impact

There will be an estimated 51 offenders annually convicted of a Class "D" felony under this Bill. On an annual basis, these offenders will be sentenced as follows: 12 to State prison, six admitted to a CBC residential facility, and 39 to probation supervision. There will be eight offenders annually convicted of an aggravated misdemeanor under this Bill. On an annual basis, these offenders will be sentenced as follows: one to State prison, five to probation supervision, and four to county jail.

There will be seven offenders admitted to prison in FY 2013, and 13 annually thereafter. The prison population will increase by seven offenders in FY 2013, and 16 offenders annually thereafter. The population increases by more than the number of admissions because the average length of stay in prison generally exceeds one year.

There will be three offenders admitted to a CBC residential facility in FY 2013, and six annually thereafter. The offenders will be released to probation upon successful completion of the residential program. Note there are currently offenders waiting to enter CBC residential facilities.

There will be 22 offenders admitted to probation supervision in FY 2013, 48 in FY 2014, and 57 in FY 2015 and thereafter. The population increases by more than the number of admissions because the average length of stay on probation supervision generally exceeds one year.

There will be two offenders sentenced to county jails in FY 2013 and four offenders annually thereafter. The average length of stay is 31 days so the county jail populations are not anticipated to significantly increase.

Minority Impact

The minority impact is anticipated to be minimal.

Fiscal Impact

The fiscal impact is estimated as follows:

State General Fund Fiscal Impact

	<u>FY 2013</u>	<u>FY 2014</u>
Court System	\$ 11,200	\$ 23,000
Indigent Defense	16,800	34,800
Prison	37,000	76,800
CBC	28,700	106,000
Total	<u>\$ 93,700</u>	<u>\$240,600</u>

The impact on the county budgets is anticipated to be minimal.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of Drug Control Policy
Department of Corrections
Office of the State Public Defender
Judicial Branch
Department of Public Safety

/s/ Holly M. Lyons

February 29, 2012

The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the correctional and minority impact statements were prepared pursuant to **Iowa Code Section 2.56**. Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
